

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
CIVIL ACTION NO. 05-30114-KPN

ANTONIO SPICER
PLAINTIFF
V.
HAMPDEN COUNTY JAIL, SHERIFF MICHAEL J. ASHE
AND DENTAL DEPARTMENT
DEFENDANTS

**DEFENDANTS' MOTION TO DISMISS
FOR FAILURE TO COMPLY WITH COURT ORDER**

Now come the defendants in the above-captioned matter and hereby move to dismiss the plaintiff's claim for failure to comply with a Court order dated June 16, 2006.

As reasons for this motion, defendant states the following:

1. On June 16, 2006 this Court ordered plaintiff to file a written report with the Clerk's Office by the close of business on July 14, 2006, indicating the status of the instant matter. Failure to comply with this order may result in dismissal of the matter for failure to prosecute.
2. Plaintiff has failed to comply with this Court's order.
3. Dismissal is appropriate when a party fails to comply with this court's rules, or fails to prosecute his or her case. See Fed. R .Civ. P. 41(b), Involuntary Dismissal:

(2) For failure of the plaintiff to prosecute or to comply with these rules or any order of the court, a defendant may move for dismissal of an action or of any claim against the defendant... (emphasis added)

By way of background,

4. On June 24, 2005, the plaintiff filed a complaint in the United

States District Court.

5. On July 20, 2005, the defendants filed their answer.
6. An initial scheduling conference was scheduled by the court for September 23, 2005.
7. Plaintiff did not appear for said hearing and later informed the court that he experienced car trouble.
8. On October 3, 2005, the court was notified that plaintiff was participating in a residential treatment program in Bridgeport, Connecticut.
9. On June 16, 2006, the court ordered status reports be filed by July 14, 2006. Defendants filed a status report on June 21, 2006.
10. No further action has been taken in this matter.

Wherefore, for the above-stated reasons, the defendants pray that the motion be allowed, and this action be dismissed.

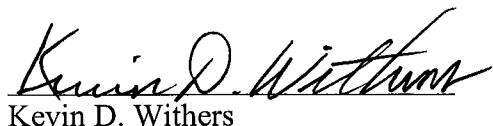
FOR THE DEFENDANTS



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CERTIFICATE OF SERVICE

I, hereby certify that on this 27th day of July, 2006, I have caused the aforementioned document to be served on all parties of record, by mailing a copy of same by first class mail (fax/hand delivery) to Antonio Spicer (pro se), 52 Willard Drive, Enfield, CT 06082.



Kevin D. Withers